

UNCLAS MAPUTO 001507

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STATE FOR AF/S TREGER

E.O. 12958: N/A

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SUBJECT: MOZAMBIQUE - NATIONAL ASSEMBLY AMENDS THE 1990

CONSTITUTION

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¶11. (U) On November 16, by a rare unanimous vote, RENAMO deputies joined their FRELIMO counterparts in approving a long list of amendments to the 1990 constitution. The majority of the changes were clarifications of existing principles and statutes. The significant amendments are as follows.

-- Term of Office: A sitting president will be able to serve a second consecutive term, but will not (unlike under the 1990 Constitution) be able to serve a third consecutive term. However, an individual will be able to serve a third term if the third term is separated in time from the second term by at least one term in office by someone else. (Note: The amendment does not address the issue of serving four or more terms. End note.)

-- Constitutional Council: The Constitutional Council, set up in 2003 to verify whether laws and decrees are in keeping with the Constitution and to validate election results, will have new powers. Its opinions will no longer be merely recommendations but decisions of law without appeal. In addition, its mandate will include investigating the legality of new political parties.

-- Council of State: In time of war or a national emergency, the president will be able to solicit advice from what will be a new advisory body known as the Council of State, made up of the prime minister, any former presidents of the Republic or the Assembly, the runner-up in the most recent presidential election, and 11 "personalities of recognized merit" - four chosen by the president and seven by the Assembly. The president can choose to ignore the advice given, however.

-- Ombudsman: The Ombudsman (a new governmental position) will have the responsibility of investigating abuses by state officials. This individual will be elected by a 2/3 majority of members of the National Assembly.

-- Provincial Assemblies: Provincial assemblies are to come into existence by 2008. FRELIMO was against having them, arguing that the country could not afford the cost of these bodies, but RENAMO insisted on their creation. The president currently appoints the governors of the provinces.

Provincial assemblies therefore would presumably give greater power and a degree of autonomy to provincial governments. Details on the assemblies, including how they will be financed, have been left to future legislation.

-- Dual Nationality: Previously one had to renounce one's former nationality to acquire Mozambican citizenship through residence. Now this will no longer necessary -- one will be able to be a dual national under Mozambican law.

¶12. (SBU) Comment: The amendments only come into force upon the validation of the results of the upcoming December 1-2 general elections. Conveniently for FRELIMO, this means that the Constitutional Council's view of the election will not yet have any legal effect on the outcome. The inclusion of the runner-up in the presidential election in the Council of State is a clear sop to Dhlakama, in case RENAMO loses. There was little suspense during the Assembly session; both parties had worked out a consensus beforehand in committee meetings. Since modifying the Constitution requires a 2/3's majority in the Assembly, and FRELIMO holds 133 seats against RENAMO's 117, securing support on both sides of the aisle meant that the changes were essentially quite modest. The most ambitious and therefore contentious modification appears to have been the creation of provincial parliaments. No wonder, then, that details on them remain to be worked out later.
LA LIME